

## **RESOLUTION NO. 2022-01-02R**

### **A RESOLUTION AMENDING THE PARKS, ARTS, RECREATION AND CULTURE TAX ADVISORY BOARD.**

WHEREAS, American Fork City Council approved Ordinance No. 2014-12-46, the Parks, Arts, Recreation and Culture Tax (“PARC Tax”), on December 9, 2014;

WHEREAS, in 2021 residents of American Fork opted to renew the PARC Tax for an additional ten (10) year term to begin in 2023 at the conclusion of the current eight (8) year term;

WHEREAS, American Fork City Council approved Ordinance No. 2021-11-56, the renewal of the PARC Tax, on November 23, 2021;

WHEREAS, pursuant to American Fork City Ordinances No. 2014-12-46 and 2021-11-56, revenue shall be distributed in accordance with UTAH CODE ANN. §59-12-1403 and for the purpose of funding eligible cultural facilities and organizations and recreational facilities in the City of American Fork, pursuant to UTAH CODE ANN. §59-12-1401 et. seq.; and

WHEREAS, the City desires to amend the regulations governing the advisory committee to assist in the determination of distribution of funds.

THEREFORE, BE IT RESOLVED by the City Council of American Fork, Utah as follows:

1. Distribution of Funds.
  - a. PARC Tax Revenue shall be distributed in accordance with UTAH CODE ANN. §59-12-1403 and American Fork City Ordinances No. 2014-12-46 and 2021-11-56 for the purpose of funding eligible cultural facilities and organizations and recreational facilities in the City of American Fork, pursuant to UTAH CODE ANN. §59-12-1401.
2. Advisory Board Established.
  - a. The City shall maintain a PARC Tax Advisory Board (hereinafter the “Advisory Board”) to advise City Council on distributions of PARC Tax funds to eligible cultural facilities and organizations and recreational facilities in the City of American Fork, pursuant to UTAH CODE ANN. §59-12-1401.
3. Appointment of Advisory Board Members.
  - a. The Advisory Board shall consist of seven (7) members appointed by the Mayor with the advice and consent of City Council. City Council members will be given the opportunity to review applications for appointment.
4. Membership and Terms of Office.
  - a. Members of the Advisory Board shall be residents of American Fork.

- b. The term of office for Advisory Board members shall be three (3) years. The term of office of the initial members shall be staggered so that four (4) are for three (3) years and three (3) are for two (2) years.
  - c. Members of the Advisory Board may be appointed for up to three (3) consecutive terms.
  - d. Each term shall continue until a successor is chosen and qualified, except in the case of the member's death, resignation, removal or disqualification from holding office.
  - e. The Advisory Board shall elect, no later than March 1, 2022 and every two (2) years thereafter, a Chairperson of the Advisory Board.
  - f. The Chairperson shall serve as the chair for a two (2) year term and may serve up to two (2) consecutive terms.
5. Removal or Vacancy From Advisory Board.
- a. Any member of the Advisory Board may be removed from office by the Mayor, with the advice and consent of City Council.
  - b. A member's office automatically becomes vacant if the member establishes residence outside of the City, or lives outside of City boundaries for a continuous period of more than sixty (60) days.
  - c. A member's office automatically becomes vacant if the member misses more than twenty-five percent (25%) of the Advisory Board's scheduled meetings during any twelve (12) month period.
6. Compensation of Members.
- a. Members of the Advisory Board shall serve without monetary compensation.
7. Responsibilities of Advisory Board and City Council.
- a. The Advisory Board may provide its input and opinion to City Council as to the distribution of PARC Tax funds.
  - b. Final recommendations from the Advisory Board to the City Council must come with a positive recommendation of at least five (5) members of the Advisory Board.
  - c. The Advisory Board will meet quarterly or as needed and called by the committee chair.
  - d. City Council shall make final determinations as to the amount of PARC Tax funds to be distributed to what entity or organization they will be distributed.
8. Liaisons to the Advisory Board
- a. The Mayor shall appoint one (1) member of City Council and one (1) member of City staff to serve as liaisons to the Advisory Board. The Liaison is not a voting member.
9. Termination of Advisory Board.
- a. City Council may, at its discretion and by majority vote, dissolve said Advisory Board at any time for any reason.
10. Adoption Policies and Procedures.
- a. The City Council hereby adopts the Policies and Procedures for PARC Tax Funding that are attached to this Resolution as Exhibit "A."

11. Effective Date.

- a. This resolution shall become effective upon its passage.

PASSED by the American Fork City Council this 25th day of January 2022.



BRADLEY J. FROST  
American Fork City Mayor



TERILYN LURKER  
City Recorder





## **POLICIES AND PROCEDURES FOR PARC TAX FUNDING**

### **Background.**

In November, 2014, a majority of American Fork City voters approved a 1/10<sup>th</sup> of 1% increase in local sales and use tax as a means of enhancing funding for recreational and cultural facilities and cultural organizations within the City of American Fork. The American Fork City Council enacted the tax by ordinance on December 9, 2014 and the tax goes into effect April 1, 2015.

In November, 2021, a majority of American Fork City residents voted to renew the increased local sales and use tax for a ten (10) year period to enhance funding for recreational and cultural facilities and cultural organizations within the City of American Fork. The American Fork City Council enacted Ordinance 2021-11-56 on November 23, 2021, extending the locals sale and use tax increase through 2033.

### **Purpose.**

The funds from the tax known as the Parks, Arts, Recreation, Culture Tax ("PARC Tax") are to be used for eligible cultural facilities and organizations and recreational facilities in the City of American Fork consistent with UTAH CODE ANN. § 59-12-1401 and as defined in UTAH CODE ANN. § 59-12-702.

### **Distribution and Use of Revenue.**

The revenue from the PARC Tax shall be distributed in accordance with UTAH CODE ANN. §59-12-1403 and for the purpose of funding eligible cultural facilities and organizations and recreational facilities in the City of American Fork, pursuant to UTAH CODE ANN. §59-12-1401 et. seq.

### **1.0 Policy.**

The American Fork City Council shall distribute the entire amount of revenues and interest collected as a result of the PARC Tax in a manner consistent with UTAH CODE ANN. § 59-12-1403, which allows for:

- 1.1 Inter-local agreement provided for under § 59-12-1704;
- 1.2 Granting to one or more organizations or facilities defined in § 59-12-702.
- 1.3 Retaining an amount not to exceed 1.5% of the tax collected under this part for the cost of administering the PARC Tax.
- 1.4 The calculation of funds to be distributed shall be the tax actually collected during the current fiscal year and an estimate of tax to be collected through June 30 of each year. Said funds shall be distributed in the forthcoming fiscal year.

### **2.0 Definitions.**

- 2.1 Administrative Unit: a division of a private nonprofit organization or institution that would, if it were a separate entity, be a cultural organization; and consistently maintains books and records separate from those of its parent organization.

- 2.2 Application Form: The PARC Tax Fund Distribution application, including the documents provided to the entities and organizations requesting funds pursuant to this policy by the City of American Fork for PARC Tax distribution and any required attachments and supporting documents.
- 2.3 Cultural Facility: any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- 2.4 Cultural Organization: a private nonprofit organization or institution having its primary purpose the advancement and preservation of art, dance, history, music, natural history, or theater; and an administrative unit. Cultural organization does not include any agency of the state; any political subdivision of the state; any educational institution whose annual revenues are directly derived more than 50% from state funds; or any radio or television broadcasting network or station, cable communications system, newspaper, or magazine.
- 2.5 Recreation Facility: a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.
- 2.6 Non-profit: an organization or corporation that is not organized, created, operated or maintained to generate a profit or distribute income to its members, directors, officers, or corporation. Certification by the Internal Revenue Service as an organization qualifying under 501(c)(3) of the Internal Revenue Code or registration with the State of Utah as a nonprofit corporation with an active status at the time of the application deadline is required for any private nonprofit organization to qualify for funds hereunder.
- 2.7 Publicly Owned: owned by a governmental agency.

### **3.0 General Guidelines.**

- 3.1 PARC Tax funds come from sales tax revenues that are collected by the State of Utah and distributed to American Fork City. All funding shall be based on the actual sales and use tax receipts as received, recorded, and reconciled by the City.
- 3.2 PARC Tax funds are not an entitlement. Filling out an application does not guarantee that any funds will be awarded.
- 3.3 The American Fork City Council shall make all final determinations as to the amount of PARC Tax funds to be distributed to each entity or organization.
- 3.4 The fact that a particular project, facility or organization has previously received PARC Tax funds does not guarantee that it will receive subsequent funding unless so authorized in the original grant.

### **4.0 Cultural Facilities Grants.**

- 4.1 PARC Tax funds may be provided to a publicly owned and operated museum, theater, art center, music hall, or other cultural or arts facility.
- 4.2 All funded facilities expenses must be located in American Fork City or within the boundaries of an inter-local agreement with American Fork City.



- 4.3 Applying entities and organizations must provide for perpetual maintenance and be responsible for operational and financial accountability for all facilities for which funding is requested.
- 4.4 Cultural facilities grants may not be used to fund publicly owned or operated cultural programs.

#### **5.0 Cultural Arts Organizations Grants.**

- 5.1 PARC Tax funds may be provided to qualifying organizations described herein.
- 5.2 Private nonprofit cultural organizations requesting funding must be 501(c)(3) nonprofit entities or registered with the State of Utah as a nonprofit corporation with an active status at the time of the application deadline.
- 5.3 Qualifying organizations include the following:
  - 5.3.1 A private nonprofit organization or institution having its primary purpose the advancement and preservation of:
    - 5.3.1.1 Natural history, art, music, theater, dance, or cultural arts including literature, a motion picture, or storytelling.

#### **6.0 Recreational Facilities Grants.**

- 6.1 PARC Tax funds may be provided to a publicly owned and operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, cultural facility, or other facility used for recreational purposes.
- 6.2 All funded facilities expenses must be located in American Fork City or within the boundaries of an inter-local agreement with American Fork City.
- 6.3 Applying entities and organizations must provide for perpetual maintenance and be responsible for operational and financial accountability for all facilities for which funding is requested.
- 6.4 Recreational facilities grants may not be used to fund publicly owned or operated recreational programs.

#### **7.0 Application Process.**

- 7.1 All interested persons, organizations, or entities must attend the pre-application meeting held prior to submitting an application.
- 7.2 An interested person, organization, or entity may submit an official PARC Tax application provided by the City of American Fork.
- 7.3 All qualifying persons, organization, or entities may be required to make a brief presentation and discuss the merits of their proposals with the PARC Tax Advisory Board and/or the American Fork City Council at a public meeting. No additional materials will be accepted at the presentations.
- 7.4 American Fork City Council shall make final determinations as to the amount of PARC Tax funds to be distributed to each entity or organization.

- 7.5 The names of entities or organizations and the amount of funds each is to receive shall be presented by the American Fork City Council at a public meeting.

#### **8.0 Distribution of Funds.**

- 8.1 Qualifying organizations may be required to enter into a contractual agreement with the City of American Fork prior to receiving funds. Said contract shall include:
- 8.1.1 A detailed planned use schedule of expenditures;
  - 8.1.2 A beginning and end date for the project, if applicable;
  - 8.1.3 A provision allowing for the City of American Fork to verify all application information and use of funds information;
  - 8.1.4 The consequences of the failure to use PARC Tax funds as approved;
  - 8.1.5 A provision explaining all unused funds shall be returned to American Fork City; and
  - 8.1.6 A provision detailing the publicity and signage requirements.
- 8.2 Said contracts must be returned to the City prior to any distribution of PARC Tax funds to the entity or organization.
- 8.3 Distribution of awarded funds shall occur on a quarterly basis for events and/or expenses anticipated to occur during the upcoming quarter.

#### **9.0 Reporting Requirements.**

- 9.1 Each recipient of PARC Tax funds shall submit written reports as required by City Council, detailing how it expended the funds received.
- 9.2 A recipient may be required to make a brief presentation to discuss how the PARC Tax funds received were expended at a public meeting.
- 9.3 Future funding may be withheld due to inadequate, incomplete, or failure to submit reports.

#### **10.0 Publicity and Signage Requirements.**

- 10.1 To help American Fork residents recognize how PARC Tax revenues are being spent, Recipients shall provide credit to the PARC Program.
- 10.2 Said credit requirements shall be Proposed by the Advisory Board for each Recipient and approved by City Council.